

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION**

<b>ROBERT CANNON,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	
	)	<b>CIVIL ACTION NO.</b>
<b>ADVANCED DISPOSAL</b>	)	<b>3:07cv846-wkw</b>
<b>SERVICES ALABAMA L.L.C.,</b>	)	
<b>d/b/a SUNFLOWER WASTE</b>	)	
<b>L.L.C.,</b>	)	
	)	
<b>Defendant.</b>	)	

**DEFENDANT’S MOTION FOR SUMMARY JUDGMENT**

Plaintiff Robert Cannon (“plaintiff”) filed this lawsuit against defendant Advanced Disposal Services Alabama L.L.C., d/b/a Sunflower Waste, (“ADS” or “defendant”), alleging that he was discriminated against because of his race in violation of Title VII of the Civil Rights Act and 42 U.S.C. § 1981. Plaintiff further makes allegations of fraud and slander against defendant. Pursuant to Rule 56 of the Federal Rules of Civil Procedure, defendant moves this Court for summary judgment on all claims asserted by plaintiff for the following reasons:

1. Plaintiff cannot establish a *prima facie* case of race discrimination in his discharge because he cannot show he was qualified for the job and he cannot show an inference of discrimination.

2. Even if plaintiff can establish a *prima facie* case of discrimination in his discharge, plaintiff cannot demonstrate that ADS' legitimate, nondiscriminatory reason for terminating his employment was pretextual.

3. Plaintiff cannot establish a *prima facie* case of race discrimination in the terms and conditions of his employment because he was not qualified for the job, did not suffer an adverse employment action, and was not treated differently than similarly situated white employees.

4. Even if plaintiff can establish a *prima facie* case of race discrimination in the terms and conditions of his employment, plaintiff cannot demonstrate that ADS' legitimate, nondiscriminatory reasons for its actions taken regarding the terms and conditions of plaintiff's employment were pretextual.

5. Plaintiff's slander claim fails because no false statements were made, ADS' statements were privileged, and plaintiff cannot prove a *prima facie* case of slander.

6. Plaintiff cannot establish a *prima facie* case of fraudulent misrepresentation because he cannot show that any false statements were made, that he reasonably relied on any alleged false statements, that any statements were made with an intent to deceive him, or that he suffered any damage as a result of the alleged false statements.

7. Plaintiff cannot establish a *prima facie* case of promissory fraud because he cannot show that any false statements were made, that he reasonably relied on any false statements, that any statements were made with an intent to deceive, or that he suffered any damage as a result of the alleged false statements.

In support of its Motion for Summary Judgment, defendant submits the following:

- A. Plaintiff's Deposition, with attached exhibits;
- B. Sherry Beasley's Deposition;
- C. Glenn Guest's Deposition, with attached exhibits;
- D. Glenn Guest's Declaration, with attached exhibits;
- E. Danny Futral's Deposition;
- F. Danny Futral's Declaration;
- G. Tom Davis' Declaration;
- H. Subpoenaed records from St. Louis MRO; and
- I. Defendant's Brief.

Therefore, based on the evidentiary submissions and the arguments in Defendant's Brief in Support of Motion for Summary Judgment, defendant Advanced Disposal Services Alabama L.L.C., d/b/a Sunflower Waste, respectfully requests that this Court grant summary judgment as to all of plaintiff's claims.

Respectfully Submitted,

/s/ J. Tobias Dykes

J. Tobias Dykes (ASB-0483-E66J)  
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**CERTIFICATE OF SERVICE**

I hereby certify that on July 11, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

James B. Douglas, Jr.  
McNeal & Douglas, Attorneys at Law, L.L.C.  
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Auburn, Alabama 36831

/s/ J. Tobias Dykes

J. Tobias Dykes